

DRAFT 10-11-13.1

WYOMING GAME AND FISH COMMISSION

CHAPTER 57

**REGULATION GOVERNING REAL PROPERTY RIGHTS OF THE
WYOMING GAME AND FISH COMMISSION**

~~Section 1. Authority.~~ This regulation is promulgated by authority of W. S. §23-1-302.

~~Section 2. Regulation.~~ The Wyoming Game and Fish Commission (Commission) hereby adopts the following regulation governing real property right(s). This regulation shall remain in effect until modified or repealed by the Commission.

~~Section 3. Purpose.~~ The purpose of this regulation is to provide direction for acquiring or disposing of real property rights on lands and waters.

~~Section 4. Definitions.~~ For the purpose of this regulation, definitions shall be as set forth in Title 23, Wyoming Statutes, and the Commission also adopts the following definitions:

~~(a) "Acquisition" means obtaining real property right(s) through a purchase, exchange, lease, easement, agreement, gift or devise, that result in real property ownership, not including powers of eminent domain, by the Commission.~~

~~(b) "Administrative facilities" means those facilities and associated land necessary to carry out the routine duties of the Wyoming Game and Fish Department (Department) such as but not limited to headquarters, regional offices, satellite regional offices, conservation camps, research facilities, game warden stations, feedgrounds, fish hatcheries, bird rearing facilities, employee housing, laboratories, training facilities, patrol cabins, check stations and such. Administrative facilities do not include wildlife habitat management areas or public access areas.~~

~~(c) "Administrative staff" means the Department Director, Deputy Directors, Division Chiefs or Assistant Division Chiefs.~~

~~(d) "Appraisal" means an unbiased estimate of the nature, quality, fair market value or utility of an interest in or aspect of identified real property right(s) and related personal property.~~

~~(e) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archeological or cultural aspects of real property.~~

~~(f) "Disposal" means selling, trading or otherwise liquidating real property right(s) owned by the Wyoming Game and Fish Commission.~~

~~(g) "Federal aid" means any grant in aid programs administered by the federal government.~~

~~(h) "Fee title" means the ownership in real property without limitations or restrictions.~~

_____ (i) ~~“Less than fee title” means a real property estate created from fee title such as easements, leases, permits, licenses, options, water rights and other interests, benefits or rights inherent in the ownership of real property.~~

_____ (j) ~~“Market value” means the highest price estimated in terms of money, which the real property right(s) would bring if exposed on the open market. Market value shall be determined by an appraisal completed by a State Certified Appraiser.~~

_____ (k) ~~“Negotiated value” means the agreed price that represents the lowest price that a Seller is willing to sell and the highest price that a Buyer is willing to pay for a real property right(s).~~

_____ (l) ~~“Nominations” mean proposed acquisition or disposal of real property right(s), submitted to or by the Department for consideration by the Commission.~~

_____ (m) ~~“Price analysis” means an analysis to assist in determining sales price of real property right(s) estimated in terms of money and based on comparable sales of similar real property right(s), potential income generation, cost savings, replacement costs, intended use and need. Price analysis shall be determined by State Certified Appraisers, licensed real estate professionals or by Department employees with expertise suitable and specific to the real property right(s) considered.~~

_____ (n) ~~“Property Rights Team” means designated representatives from the Department Director’s Office and each Division. There shall be one voting member from the Director’s Office and each Division.~~

_____ (o) ~~“Public records” mean the chain of title records in the County Clerk’s Office in the counties of the nominated real property right(s).~~

_____ (p) ~~“Real property” means the earth’s surface, the air above and the ground below, as well as appurtenances to the land including buildings, structures, fixtures, fences and improvements erected upon or affixed to the same, excluding growing crops.~~

_____ (q) ~~“Real property right(s)” means an interest, benefit or right inherent in the ownership of real property.~~

_____ (r) ~~“Real property right(s) ranking system” means the Commission’s policy guideline that ranks property for its importance to wildlife habitat and public access.~~

_____ (s) ~~“State Certified Appraiser” means an appraiser who has been certified by authority of W.S. §33-39-101 and by rules and regulations established by the Wyoming Certified Real Estate Appraiser Board.~~

_____ (t) ~~“UASFLA” means the Uniform Appraisal Standards for Federal Land Acquisitions, also known as “Yellow Book”, promulgated by the Interagency Land Acquisition Conference.~~

_____ (u) ~~“USPAP” means the Uniform Standards of Professional Appraisal Practices of the Appraisal Institute, promulgated by the Appraisal Standards Board of the Appraisal Foundation.~~

_____ **Section 5. Requirements for Appraisal or Price Analysis.**

_____ (a) ~~The market value for all fee title and conservation easement real property rights shall be determined by an appraisal prepared by a State Certified Appraiser and reviewed by a State Certified Appraiser, both adhering to USPAP or UASFLA standards as appropriate. Either the preparation or the review of the appraisal shall be completed by an appraiser who is not an employee of the Department. The selection of a third party appraiser or reviewer shall be approved by the Department.~~

~~_____ (b) An appraisal or a price analysis shall be completed for any acquisition or disposal of less than fee title real property right(s), except for conservation easements, which shall comply with Section 5(a) above.~~

~~_____ **Section 6. Procedure for Acquisition of Real Property Rights.**~~

~~_____ (a) Acquisition Nominations.~~

~~_____ (i) The public, a government agency, an organization or any entity may submit a nomination for acquisition of real property rights. Within the Department or the Commission, only Commissioners, Administrative Staff and Regional Supervisors may submit nominations. Nominations shall be submitted in writing and shall contain a minimum of the following information: a legal description, map and a summarized statement explaining the reason why the real property right(s) should be acquired. Nominations shall be delivered to the Lands Administration Section, Services Division, Wyoming Game and Fish Department, 5400 Bishop Blvd., Cheyenne, Wyoming 82006.~~

~~_____ (ii) The Lands Administration Section shall forward all nominations to the Regional Supervisors and under their direction, regional field personnel shall evaluate all nominations utilizing the real property right(s) ranking system. The region shall prepare a detailed evaluation report and recommendation.~~

~~_____ (iii) After the region has completed the ranking evaluation, the Lands Administration Section and regional field personnel shall discuss the nomination including real property right needs, project goals, management plans, alternatives, consequences, estimated acquisition costs, potential funding and development and maintenance costs. The Lands Administration Section shall forward the nomination including a detailed report and the regional recommendation to the Property Rights Team.~~

~~_____ (iv) The Property Rights Team shall review the nomination. If the Property Rights Team decides not to proceed with a nomination, a letter shall be sent by the Director's Office to the person or entity who submitted the nomination advising them of the decision. If the Property Rights Team grants authorization to proceed, the nomination shall be presented to the Commission for consideration.~~

~~_____ (v) The Commission or the Director's Office of the Department may terminate a nomination at any time.~~

~~_____ (b) Commission Action on Acquisitions.~~

~~_____ (i) The Department shall present the nomination(s) to the Commission in open session including identification of real property right(s) to be acquired, estimated values of the rights to be acquired, management needs, development costs, maintenance costs and draft contracts. Should the Commission grant authorization to proceed, any property acquired that involves expenditure of federal funds shall be acquired in compliance with applicable federal aid requirements and procedures.~~

~~_____ (A) Pursuant to W.S. §16-4-405(a)(vii), these proceedings may be held in executive session if public disclosure would cause a likelihood of an increase in price to the Commission.~~

~~_____ (B) If the Commission does not grant authorization to proceed, a letter shall be sent by the Director's Office to the person submitting the nomination advising them of the decision.~~

~~_____ (ii) If the Commission grants authorization to proceed with the acquisition of fee title or conservation easement real property rights, then the Department shall enter into a purchase agreement with the Seller, after which the Department shall complete, or order to be completed, an appraisal and a title report. If the Commission grants authorization to proceed with the acquisition of other less than fee title real property~~

rights, the Department may enter into a purchase agreement and shall complete, or order to be completed, an appraisal or price analysis and a title report.

~~_____ (A) Prior to final approval of fee title acquisitions, the Department shall advise the Governor's Office and then advertise the Commission's intent to acquire fee title property right(s) through local newspapers and one (1) newspaper of statewide circulation. The advertisement shall be one (1) time a week for four (4) consecutive weeks. The advertisement shall fully set forth all necessary information to inform the public of the property's location, a short summary explaining the reasons for acquisition, and the date, time and location of the anticipated final Commission hearing to consider the acquisition.~~

~~_____ (B) At the Commission's discretion, a public meeting may be held to discuss any real property right acquisition and to solicit additional public comments.~~

~~_____ (C) At the Commission's discretion, public advertisement or notice to the Governor's Office may be required for less than fee title acquisitions.~~

~~_____ (D) Upon receipt of public input and after all review has been completed, the Commission may vote on whether the property should be acquired.~~

~~_____ (E) Any ranked properties not acquired shall remain ranked. Depending upon continued availability, funding and need, ranked properties may be resubmitted to the Commission at future meetings.~~

~~_____ (F) The Commission shall not pay more than market value to acquire fee title or conservation easement real property rights.~~

~~_____ (G) The Commission shall utilize the information provided in an appraisal or a price analysis in determining the highest negotiated value to be paid for less than fee title property rights.~~

~~_____ (iii) After the Commission authorizes the purchase of the proposed acquisition, all associated documents and contracts shall be reviewed and approved by the Department and the Attorney General's Office prior to execution.~~

~~_____ (A) Conveyance documents shall be recorded in the respective County Clerk's Office as public records.~~

~~_____ (B) A title vesting certificate shall be prepared or approved by the Attorney General's Office to certify that the real property right(s) are vested in the name of the Wyoming Game and Fish Commission. The Seller, at Seller's cost, shall provide a title insurance policy in an amount to be no less than the purchase price.~~

~~_____ (C) All acquired real property rights shall be monitored by Department personnel in a manner prescribed by the Department.~~

~~_____ **Section 7. Procedure for Disposal of Fee Title.**~~

~~_____ (a) Disposal Nominations:~~

~~_____ (i) The public, a government agency, an organization, or any person or entity may submit a nomination for disposal of real property rights. Within the Department or the Commission, only Commissioners, Administrative Staff and Regional Supervisors may submit nominations. Nominations shall be submitted in writing and shall contain a minimum of the following information: a legal description, map and a summarized statement explaining the reason why the property right(s) should be disposed. Nominations shall~~

be delivered to the Lands Administration Section, Services Division, Wyoming Game and Fish Department, 5400 Bishop Blvd., Cheyenne, Wyoming 82006.

~~_____ (ii) The Lands Administration Section and regional field personnel shall discuss the original purposes and funding sources for acquisition, current management goals, the reconfiguration and consequences if the real property rights is disposed, and a marketing plan including the proposed sales strategy, estimated sales price, timing of the sale and preparation of the real property prior to the sale. The Lands Administration Section shall forward the nomination including a detailed report and regional recommendation to the Property Rights Team.~~

~~_____ (iii) The Property Rights Team shall review the nomination. If authorization to proceed is not granted by the Property Rights Team, a letter shall be sent by the Director's Office to the person submitting the nomination advising them of the decision. If authorization to proceed is granted by the Property Rights Team, the information shall be presented to the Commission for consideration.~~

~~_____ (iv) The Commission or the Director's Office of the Department may terminate a nomination at any time.~~

~~_____ (b) Commission Action on Disposals.~~

~~_____ (i) Prior to public disclosure of intended disposal, the Department shall present the nomination(s) to the Commission in open session. Identification of real property right(s) to be sold and estimated values of the rights to be sold shall be presented to the Commission for authorization to proceed. Should the Commission grant approval to proceed, any property disposal that was originally acquired with federal funds shall be disposed of in compliance with applicable federal aid requirements and procedures. If the Commission does not grant authorization to proceed, a letter shall be sent by the Director's Office to the person submitting the nomination advising them of the decision.~~

~~_____ (ii) Once the Commission authorizes to proceed with disposal, the Department shall have any fee title disposals appraised to establish market value or less than fee title disposals shall be appraised or have a price analysis to determine the minimum negotiated value for the disposal. The Department shall advise the Governor's Office and advertise the Commission's intent to sell fee title property right(s) through local newspapers and one (1) statewide newspaper. The advertisement shall be one (1) time a week for four (4) consecutive weeks. The advertisement shall fully set forth all necessary information to inform the public of the property's location, a short summary explaining the reasons for selling, and the date, time and location of the anticipated final Commission hearing to consider the disposal.~~

~~_____ (A) At the Commission's discretion, a public meeting may be held to discuss the proposed nomination and to solicit additional public comments.~~

~~_____ (B) Following the public notice and receipt of public input and after all review has been completed, the Commission shall vote on whether the real property title right(s) should be disposed of by the Commission.~~

~~_____ (C) Market value is the minimum price the Commission shall accept for fee title real property rights and minimum acceptable negotiated value is the minimum price the Commission shall accept for less than fee title real property rights~~

~~_____ (D) The sale of fee title property right(s) shall be accomplished by sealed bid or by public auction. In the event that market value is not offered, the Department may list the fee title real property right with a Wyoming licensed real estate broker at market value. When an acceptable offer is received and approved by the Commission, the Department shall enter into a purchase agreement.~~

~~(E) All trades shall be based on receiving value for value with the same minimum price accepted in a value for value trade as indicated in subsection (C) above. If there are inequities in values of the real property right(s) being traded, value for value shall be achieved by a cash payment, or some other agreed upon remuneration.~~

~~(iii) After the Commission authorizes disposal of the real property right(s), all associated documents and contracts shall be reviewed and approved by Department personnel and the Attorney General's Office prior to execution.~~

~~(A) All documents shall be recorded in the respective County Clerk's Office as public records.~~

~~(B) A title vesting certificate shall be prepared or approved by the Attorney General's Office to certify that the real property right(s) are vested in the name(s) of the appropriate grantees.~~

~~**Section 8. Exemption for administrative facilities and properties.** The acquisition and disposal of administrative facilities and associated lands are exempt from this regulation.~~

~~**Section 9. Renewals.** Renewals of existing agreements for less than fee title real property rights shall be presented to the Commission in open session for consideration and action before execution of the renewal.~~

~~**Section 10. Temporary Uses.** Agreements for temporary uses of less than fee title real property rights that do not exceed two years in duration are exempt from the acquisition process as indicated in Section 6 of this regulation. The Department shall notify the Commission member in whose district the temporary use agreement will occur. After being notified and fully informed of the temporary use agreement, if the Commission member believes that the temporary use agreement should be considered by the full Commission, it shall be presented to the Commission in open session for consideration and action before execution of the agreement.~~

~~**Section 11. Emergency Clause.** Notwithstanding the previous section(s), the Department may act on behalf of the Commission with notice to the Commission, to acquire or dispose of real property rights and amend, correct or maintain existing real property rights necessary for emergencies, error and omissions, and to take advantage of narrow windows of opportunity. This section is not applicable to any acquisitions or disposals of property where federal aid implications are involved.~~

~~**Section 12. Savings Clause.** If any provision of this regulation shall be held to be illegal or unconstitutional, such a ruling shall not affect other provisions of this regulation which can be given effect without the illegal or unconstitutional provision; and, to this end, the provisions of this regulation are severable.~~

WYOMING GAME AND FISH COMMISSION

By: _____

Aaron Clark, President

Dated: January 24, 2013 _____